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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,005	03/17/2004	Robert T. Ellingson	A042 1100.1	4422

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EXAMINER

GILBERT, WILLIAM V

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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09/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,005

Applicant(s)

ELLINGSON, ROBERT T.

Examiner

William V. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 14 June 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

This is a First Action on the Merits. Claims 1-24 are pending.

Election/Restrictions

1. Applicant's election without traverse of Species I (corresponding to Figures 1-4) in the reply filed on 21 June 2007 is acknowledged. The examined claims are Claims 1-24.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-24 are rejected under 35 U.S.C. 102(a) as being anticipated by Schiffmann (U.S. Patent No. 7,204,059).

Claim 1: Schiffmann discloses a frame with a sill, jambs and head jamb (Fig. 3A: generally) and a plastic member (Fig. 9) attached to the head jamb (see Fig. 3A) configured to define a flashing strip (82), nailing fin (40) and a drip edge (52)..

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Claim 2: the nailing fin is attached to the flashing strip with a flexible hinge (bend proximate 86B).

Claim 3: the drip edge includes a lip (portion indicated by A5 proximate 100).

Claim 4: the frame is a doorframe.

Claim 5: a construction cover (92) configured to cover and protect a portion of the head jamb.

Claims 6 and 7: the construction cover is removable with a tear away connection (100), which separates as the construction cover is removed.

Claims 8 and 9: the jambs are provided with brick mold (Col. 3, lines 40-45) and the flashing strip and construction cover would cover an upper surface of the brick mold on the head jamb.

Claim 10: Schiffmann discloses a door assembly with a threshold, side jambs and a head jamb (Fig. 3), brick molding (Col. 3, lines 40-45) extending along the vertical jambs, a plastic member (Fig. 9) attached to the head jamb having a flashing strip (82) which would overly an upper surface of the brick mold, and a removable construction cover (92) overlying an outside face of the brick mold.

Claim 11: the construction cover is attached to the flashing strip with a tear-away hinge (100) that separates.

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Claim 12: a drip edge (52) along the flashing strip.

Claim 13: the construction cover is removably attached along the drip edge.

Claim 14: the construction cover is attached with a tear-away connection (100).

Claim 15: the plastic member defines a nailing fin (40).

Claim 16: the nailing fin is attached to the flashing strip with a flexible hinge (bend proximate 86B).

Claim 17: a second plastic member extends along the side jambs (Fig. 3); each has a plastic member with a removable construction cover (92) overlying the brick mold (Col. 3, lines 40-45).

Claim 18: the construction cover is attached by a tear-away connection (100) that separates to allow removal of the cover.

Claim 19: Schiffmann discloses a frame for a door having a sill (bottom portion), side and head jambs, brick molding (Col. 3, lines 40-45) surrounding the frame along an outside edge of the jamb and a plastic member extending along the head jamb, having a removable construction cover (92) that overlies and protects the mold and the cover can be removed at any time.

Claim 20: the plastic member has a flashing strip (82) that overlies an upper surface of the brick mold.

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Claim 21: the plastic member has a nailing fin (40) for attaching the frame in an opening.

Claim 22: Schiffmann discloses a plastic member comprising an elongated flashing strip (82) having an inside edge and outside edge, and a construction cover (100) that is removably attached along the edge of the strip (via drip edge 52) and can overlie and protect an exposed face of brick mold.

Claim 23: a nailing fin (40) is hingedly attached (bend proximate 86B) along the inside edge of the flashing strip.

Claim 24: a drip edge (52) formed along the outside edge of the flashing strip.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Freelove (U.S. Patent No. 5,203,130); Hill (U.S. Patent No. 5,775,045); Kersher (U.S. Patent No. 7,111,433).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be

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reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG

Basil Katch
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BRIEF EXAMINER
RV 3635
8/30/07